

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

JOHN ROBERT SMITH,

Civil No. 08-4744 (JRT/JJK)

Petitioner,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

JOAN FABIAN AND MINNESOTA
DEPARTMENT OF CORRECTIONS,

Respondents.

John Smith, #225327, 1101 Linden Lane, Faribault, MN 55021, pro se petitioner.

Mark Lystig, Assistant Ramsey County Attorney, **OFFICE OF THE RAMSEY COUNTY ATTORNEY**, 50 West Kellogg Boulevard, Suite 315, St. Paul, MN 55102; Peter Marker and Tibor Gallo, **MINNESOTA ATTORNEY GENERAL'S OFFICE**, 445 Minnesota Street, Suite 900, St. Paul, MN 551001, for respondents.

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Jeffrey J. Keyes, dated July 29, 2008, all the files and records, and no objections having been filed to said Report and Recommendation.

Based upon the Report and Recommendation of the Magistrate Judge, and all of the files, records and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Petitioner's application to proceed in forma pauperis, [Docket No. 2], is **DENIED**; and
2. This action is summarily **DISMISSED WITHOUT PREJUDICE**.

Dated: August 20, 2008
at Minneapolis, Minnesota

s/John R. Tunheim
John R. Tunheim
United States District Judge